

# Senate Study Bill 1027 - Introduced

SENATE/HOUSE FILE \_\_\_\_\_

BY (PROPOSED ATTORNEY GENERAL  
BILL)

## A BILL FOR

1 An Act relating to consumer contract terms.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1     Section 1. NEW SECTION. 714.16D Unfair consumer contract  
2 terms.

3     1. For purposes of this section:

4     a. "Consumer" means a person who buys, leases, or rents  
5 merchandise.

6     b. "Merchandise" means the same as defined in section  
7 714.16.

8     c. "Person" means the same as defined in section 714.16.

9     2. A person shall not include in a contract or proposed  
10 contract for the sale or lease of merchandise a provision  
11 waiving a consumer's right to make any statement regarding the  
12 seller or lessor, the seller's or lessor's employees or agents,  
13 or the merchandise.

14     3. A person shall not include in an agreement evidencing the  
15 resolution of a dispute regarding a contract made in connection  
16 with the sale or lease of merchandise a provision barring the  
17 consumer from communicating information to a governmental  
18 official or agency, or a representative of a governmental  
19 official or agency.

20     4. A person shall not seek, threaten to enforce, or enforce  
21 a contract provision or an agreement evidencing the resolution  
22 of a dispute that violates this section. A person shall not  
23 penalize a consumer for engaging in any conduct protected by  
24 this section.

25     5. A waiver of any provision of this section is contrary to  
26 public policy and is void and unenforceable.

27     6. An attempt by a person to have a consumer waive any  
28 rights given in this section is a violation of this section.

29     7. A violation of this section is an unlawful practice  
30 pursuant to section 714.16, and all remedies of section 714.16  
31 are available for an action brought under section 714.16.

32                                   EXPLANATION

33             The inclusion of this explanation does not constitute agreement with  
34             the explanation's substance by the members of the general assembly.

35     This bill forbids the inclusion, in a contract for the

1 sale or lease of merchandise or in an agreement evidencing  
2 the resolution of a dispute relating to the sale or lease of  
3 merchandise, of any provision which would prohibit a consumer  
4 from making any statement regarding the seller, lessor, or  
5 the merchandise, including a statement to a governmental  
6 official or agency. "Merchandise" includes any objects,  
7 wares, goods, commodities, intangibles, securities, bonds,  
8 debentures, stocks, real estate or services. Any waiver of  
9 a consumer's rights to make statements regarding the seller,  
10 lessor, or merchandise is void and unenforceable. An attempt  
11 by a person to have a consumer waive the consumer's rights to  
12 make a statement regarding the seller, lessor, or merchandise  
13 is a violation of the new Code section and is an unlawful  
14 practice under Code section 714.16. Under Code section  
15 714.16, with regard to unlawful practices, the attorney general  
16 has the authority to issue subpoenas, hold hearings, adopt  
17 administrative rules, and file lawsuits to obtain temporary and  
18 permanent injunctive relief, consumer reimbursement, costs and  
19 attorney fees, and civil penalties up to \$40,000 per violation.